

AN ORDINANCE


BY COUNCILMAN JIM MADDOX

AN ORDINANCE TO AMEND ARTICLE XXIV, SECTIONS 30-1461 ET SEQ. OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA ENTITLED "VENDING ON PRIVATE PROPERTY" SO AS TO ADOPT THE RECOMMENDATIONS OF THE PRIVATE PROPERTY VENDING POLICY AND ADVISORY COMMITTEE SAID RECOMMENDATIONS BEING HERETO ATTACHED AS EXHIBIT "A"; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

Whereas, the City has the responsibility to regulate, and prohibit any act, practice, conduct, or use of property which is detrimental, or likely to be detrimental, to the health, sanitation, cleanliness, welfare, and safety of the inhabitants of the City and to provide for the enforcement of such standards; and

Whereas, the City has the power to make, ordain, and establish such bylaws, ordinances, rules, and regulations as shall appear necessary for the security, welfare, convenience, and interest of the City and the inhabitants thereof and for preserving the health, peace, order, and good government of the City; and

Whereas, pursuant to its police powers, the City of Atlanta is authorized to enact legislation to regulate certain types of businesses and industries which could potentially affect the public health, safety and welfare, including vending on private property; and

Whereas, there is a proliferation of private property vendors some of whose vending sites and structures are unsightly and unsafe; and

Whereas, this proliferation of private property vendors has also led to traffic congestion and the creation of dangerous traffic conditions; and

Whereas, the City ordinances regarding vending on private property should be reviewed, revised and updated in order to eliminate the problems associated with vending on private property; and

Whereas, the Private Property Vending Policy and Advisory Committee was created to perform such a review and to make recommendations to the City Council and the Mayor; and

Whereas, the Committee has completed its work and has submitted its recommendations; and

Whereas, said recommended changes must now be incorporated into the City's private property vending ordinance.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS
as follows:

Section 1: Article XXIV, Sections 30-1461 et seq. of the Code of Ordinances of the City of Atlanta, Georgia entitled "Vending on Private Property" is hereby amended so as to adopt and incorporate therein, the recommendations of the Private Property Vending Policy and Advisory Committee said recommendations being hereto attached as Exhibit "A".

Section 2: All ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

Introduction

Background Rational for Private Property Vending:

The vending ordinance was passed in the 1970's to give small business persons a *temporary* opportunity to transition into a permanent business.

Changing Times and Economic Growth and Development:

The Atlanta area has undergone massive changes since passage of the private property vending ordinance. Population growth, a more urban atmosphere, and other factors that either contribute to the desirability of a neighborhood or detract from its appeal to a broad-based residential and commercial market.

Changes in community standards are reflected in the reduction of opportunities to vend within some of the newer zoning designations that restrict approval of outdoor private property vending only through special administrative permits.

The *collective, cumulative* impact from some outdoor private property vending as it has been allowed to exist in some instances:

- contributes to physical disorder and decline within distressed communities
- adds to the challenge of attracting/retaining quality economic growth and development opportunities for the surrounding community

All of which impacts available tax revenue for the entire City for necessary services such as schools, roads, sanitation, parks, and public safety.

A balance of interests must exist in all communities.

While the scope of work for the Private Property Vending Task Force was limited, we felt compelled to provide additional recommendations beyond our scope, and have included those comments at the end of the report.

Addendums included in the recommendations contain the following information:

- Addendum A: Additional Recommendations Beyond Scope of Task Force
- Addendum B: Example of Recommended Vending Apparatus
- Addendum C: Jurisdictions Used as References for Vending Standards
- Addendum D: Photographs of Current Practices

Recommendations

Section 1: Policy Statement

The intent of outdoor private property vending is to serve a short-term need and not to be a permanent or quasi-permanent feature of a private property.

Section 2: Categories

Because of the varying types of outdoor private property vending, the recommendation is to distinguish the vending activities by category. This allows for the flexibility to tailor standards without casting a broad net which may have unintentional consequences on all outdoor private property vending activity.

The Task Force focused on changes on the single category of vending which holds the most concern in impacted neighborhoods, and makes no recommendations for other categories. However, we suggest a review of time length of permits (particularly the three 45-day permit renewals per year) cite requirements (particularly park availability in the Seasonal Extended category), and aesthetic standards in other categories as necessary.

Sample Category Permit Titles

Outdoor Private Property Vending:	Seasonal Short-term (Exclusive to X-mas trees, Halloween pumpkins, etc.)	Seasonal Extended (Perishable produce only - Sales usually last approx. 6 months)	Sporting & Concert Venues (any items sold at single sporting events, entire sports season, single concert events at major venues, i.e., Ga. Dome & Turner Field)
<u>Focus Category</u> Outdoor Private Property Vending:	<i>Short-term Merchandise (non perishable items only- not to be combined with any other category) Permit : 14-day maximum permit</i>		

* Permit categories may not be combined.

Section 3: Recommended Changes to Requirements and Restrictions

Site Requirements

- . Parking requirements:

Site plan must show available parking spaces of existing site exceeds the minimum parking requirements in order to accommodate vending customers as well as customers of the existing (permanent) business.

Vending Restrictions and Prohibitions

Note: Combine existing zoning (16-28.008) and police requirements (Section 30-1464) regarding where vending can occur on a site into the zoning ordinances (**Intent:** Increase efficiency of the enforcement process. This is in no way intended to interfere with police power to enforce conditions set forth in the Permit.)

- Any power sources must be depicted in the site plan and must not originate from power source of an existing permanent business, and must meet applicable safety code standards.
- Vending structures shall not be left unattended or stored at any time on the vending site when vending is not taking place or during restricted hours of operation.
- Hours of operation shall be from 8 a.m. to 8 p.m.
- Amplified sound or sound equipment is prohibited.
- Flashing lights are prohibited.

Application Requirements :

Evidence of Permission to Vend on Private Property

- Amend existing " permission from property owner\leaseholder" language to include: Agreement must be notarized and a 24-hour contact number of the property owner or leaseholder shall be provided along with the permit application and to be part of the required cite plan.

Evidence of Acknowledgement of Zoning Regulations

- Standard required language in written permission to vend agreement (or a separate acknowledgment form) acknowledging that property owner\leaseholder is aware of zoning requirements for the property as they relate to vending and responsibility in violations found under zoning regulations related to vending (location of vending on the site, storage of vending structures on site, parking requirement, etc.).

Distance Requirements

- 1,500 foot minimum distance from like permanent businesses selling same or similar products. 1,500 foot minimum distance between vendors. (If violation occurs, the most recent permit issued within the restricted distance area will be invalid.) *Intent:* Reduce "clustering" of vendors in a particular area)

Site Plan

- Site plan to be included in application.

Required Aesthetic Standards for Display of Merchandise and Vending Structures:

- Vending is permitted from tables only. Table restricted to one (1) portable folding table only, not to exceed 4X8 in size.
- Canopy: If used, must be unenclosed portable folding canopy only. One (1) canopy permitted (not required), shall be white in color, shall not contain any writing and not to exceed 10x10 in size.
- Canopy structures supported or anchored by ropes, containers, or similar devices is prohibited.
- Vending structures must be removed from vending site when vendor is not doing business and during restricted hours of operation.
- Vending structure must be in good repair at all times.
- Merchandise shall be displayed on table only and shall not be higher than one level at any point or displayed above or below table level at any time.
- Storage of merchandise in boxes or containers around vending structure prohibited.
- *If signage is allowed*, no more than one (1) sign not to exceed 2' x 3' in size and displayed only on or attached to the vending table. Must be included in site plan if signage to be used.
- Description of structures and hours of operation to be used to be a part of site plan.

Length of time allowed at a site:

- Maximum 14 days
- Permit location is not transferable. No more than 2 permits per calendar year shall be issued for one address. (*Shortest periods of jurisdictions investigated range from 7 to 9 days. 14 days will allow for 2 weekends*)
- **No vending permit shall be issued that allows same vender to vend at same location more than 14 consecutive days.** "Same location\ one location" shall mean a property or group of contiguous or noncontiguous properties, whether or not under common ownership, which are under a common street address, both as to house or building number and street name. (Intent: Reduce appearance of "permanent" vending at any location, and end the practice of roll-over of permits. The one year limitation has been back-dooored when a vendor who has exceeded the time limitation at a location has a family member, etc., file for a new license and continues vending at same location under the new license.)

Note: *Review permit fee schedule to adjust from 45-day fee to 14- day fee.*

Enforcement: Penalties found to be sufficient if enforcement occurs. However enforcement problems exist due to:

- Insufficient APD Permits enforcement and Zoning enforcement staff have resulted in inconsistent attention to enforcement of laws pertaining to outdoor private property vending

Notification:

- *Zoning Permits to notify district councilperson and effected NPU upon receipt of vending application. Copy of required cite plan shall be available upon request.*

Cite Plan:

- In addition to recommended additions to site, a picture depicting correct standards will be included with application and will be included in the site plan to be on display at all times.

Miscellaneous Recommendation:

Review the interpretation recently given to APD Permits regarding the definition of the phrase "one year" in the existing vending law. Vending currently restricts the same vendor to only one year at any single location. However, a recent legal interpretation stated that "one year" is 365 continuous days and not a calendar year. As a result of this interpretation, in several documented instances the same outdoor private property vendors have been at the same locations for several years because Permits is unable to establish that their time at the same location has exceeded 365 continuous days. This may go against the intent behind the time limitation passed by Council two years ago. A review of this situation is important because any new laws and standards will not be retroactive.

Addendum A.

Long and Short Term Recommendations to Address Private Property Vending in the City of Atlanta

Incorporated within our recommendations are additional comments to be considered to *stimulate meaningful dialog and encourage movement* towards taking serious, effective steps towards truly helping vendors become permanent business owners.

Short term possibilities:

- Divert taxes collected from outdoor private vendors and place them into a fund whereby vendors can apply for micro loans and/or receive grants to transfer their operation into a fixed location, i.e. a storefront, or improve their existing operation by upgrading their equipment.
- Enter into an agreement with known hardware merchants (Home Depot, Loews, Ace) whereby those private vendors who are in compliance with the laws (appearance, payment of taxes, valid license, etc.) receive a discount, as agreed upon by all parties involved, on goods needed to maintain operation (canopy, tables, etc.).
- Provide classes and/or seminars to educate private property vendors on improving their business, raising capital, marketing, or any other skill possibly lacking which is impeding their ability to move beyond private property vending.

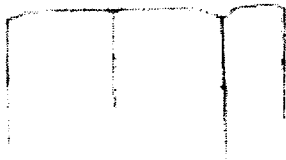
Long term possibilities :

- Create open air markets designated for outdoor private property vendors. Markets should reflect the culture, aesthetics, and needs of the community and vendors.
- Provide incentives for transferring operations to designated sites.
- Provide notice to the public to build clientele and show support for emerging small businesses.
- Create a program by which private property vendors, who desire to establish their business in economically emerging communities, can become eligible for federal, state, or local funding so they may continue to serve said community and make the formal transition into a fixed location. The office of economic development could partner with the Small Business Administration (SBA) to facilitate this potential program.

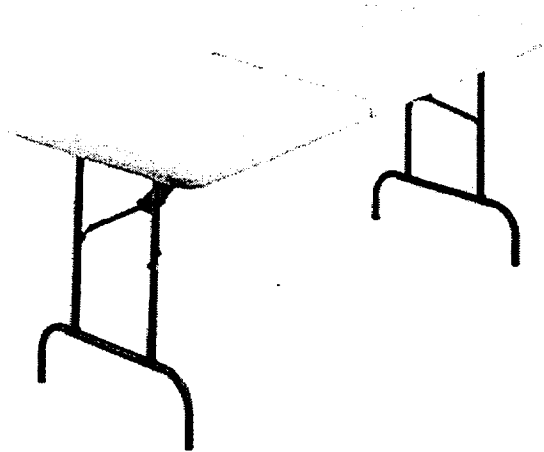
Addendum B

A picture and size specifications of the required vending equipment is to be part of the site plan.

Canopy size: 10x10 maximum - Color: White
(no writing)



Examples Only



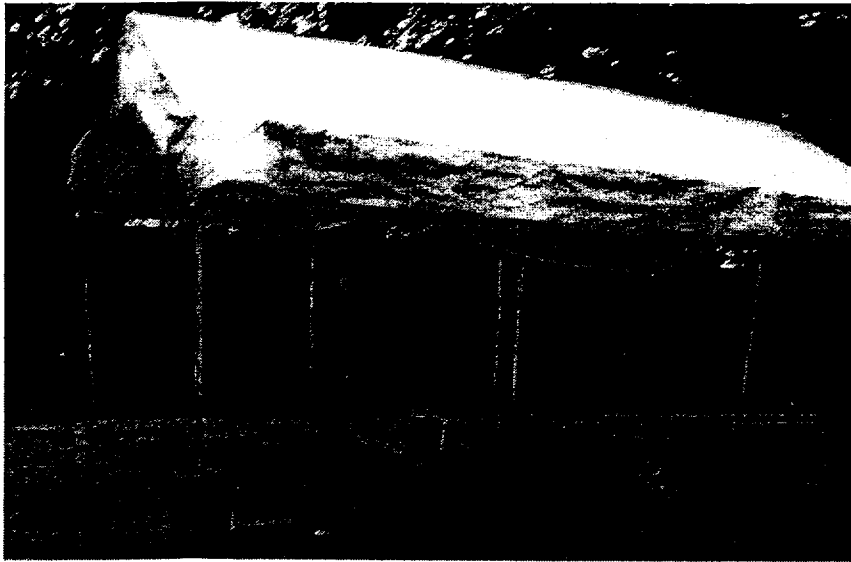
Size: Not to exceed 4x 8

Addendum C

Reference sources:
Cleveland, Pittsburgh, Miami, Fulton County, New Orleans

Addendum D

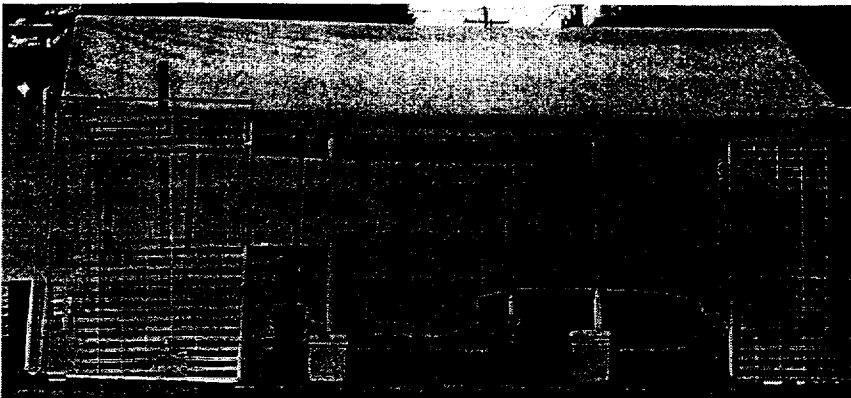
Vending Activity Throughout 2003-2004 on Campbellton Rd. From Ft. McPherson to Fairburn Rd.



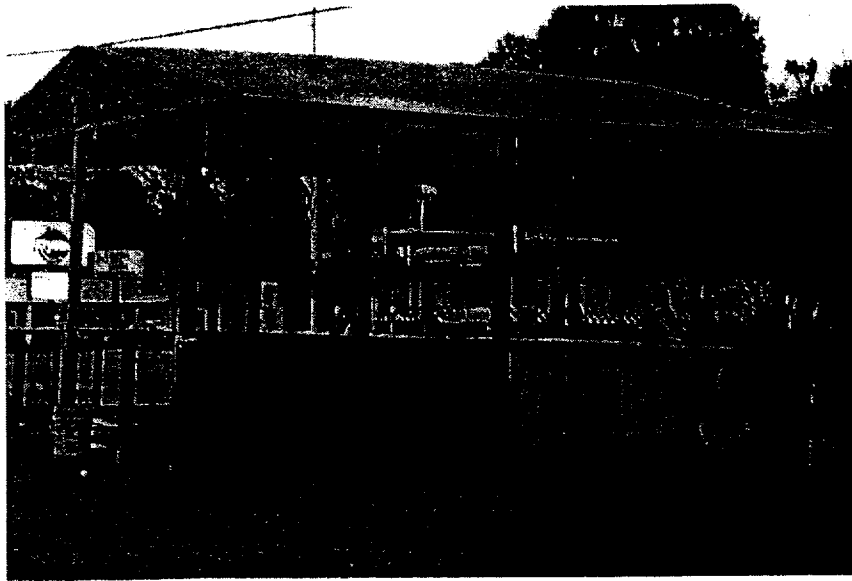
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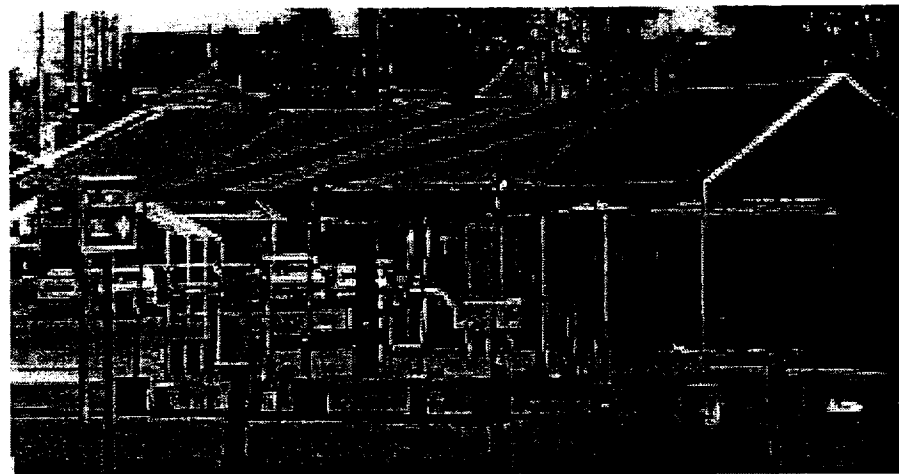
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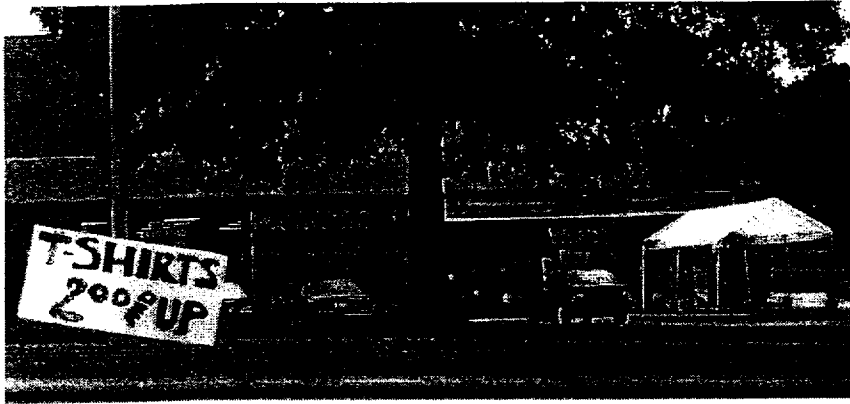


#4



#5 (directly across from #4)





Greenbriar & Headland

